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*Attorneys for the Official Committee of Equity Security
 Holders of USA Capital Diversified Trust Deed Fund, LLC*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725-LBR

In re:
USA SECURITIES, LLC,
Debtor.

**JOINT EX PARTE APPLICATION
FOR ORDER REQUIRING MICHAEL
ZITO TO APPEAR FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 2004**

[No hearing required]

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the “Bankruptcy Rules”), USA Capital Diversified Trust Deed Fund, LLC (hereinafter, “Diversified”), and the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (hereafter, the “Diversified Committee”), by and through their respective counsel noted above,¹ hereby apply for an order setting the examination of Michael Zito under oath, under Bankruptcy Rule 2004, in relation to the following:

Acts, conduct or property of Diversified and the other debtors in the above-captioned bankruptcy cases (collectively, the “Debtors”), or to any matter which may affect the administration of the Debtors’ estates; and acts, conduct, or property of the Debtors that relate to the liabilities and financial condition of the Debtors, the source of any money or property acquired or any other matter relevant to the cases.

Specifically, Diversified and/or the Diversified Committee desire to examine Michael Zito concerning the obligation owed to the Debtors by BySynergy, LLC, collateral securing that obligation, the status of development of the collateral, and other liens on the collateral.

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¹ Diversified and the Diversified Committee make this Application jointly because counsel for the Diversified Committee will become counsel to the reorganized Diversified entity subsequent to the Effective Date under the Debtors’ Third Amended Chapter 11 Plan, which was confirmed by the Court pursuant to its order entered January 8, 2007.

Bankruptcy Rule 2004(a) provides that “[o]n motion of any party in interest, the court may order the examination of any entity.” Rule 2004 of the Local Rules of Bankruptcy Procedure (hereinafter, the “Local Rules”) provides, in pertinent part:

(b) Order for examination. Orders for examination may be signed by the clerk if the date set for examination is more than ten (10) business days from the date such motion is filed....

LR 2004(b).

As set forth above, the date for the proposed examination is more than ten (10) business days from the date of this Application. Accordingly, Diversified and the Diversified Committee respectfully request that the Clerk of the Court docket the Order Requiring Michael Zito to Appear for Examination Pursuant To Federal Rule of Bankruptcy Procedure 2004, submitted herewith.

WHEREFORE, Diversified and the Diversified Committee respectfully request that this Honorable Court enter an order requiring Michael Zito to testify under oath on the matters outlined above and requiring that Michael Zito under Rule 30(b)(6) of the Federal Rules of Civil Procedure be required to appear on February 2, 2007, at 11:00 o’clock a.m. Mountain Standard Time at the Residence Inn By Marriott, 3440 North Country Club Dr., Flagstaff, Arizona 86004.

Respectfully submitted this 10th day of January 2007.

BECKLEY SINGLETON, CHTD.

RAY, QUINNEY & NEBEKER, P.C.

/s/ Anne M. Loraditch

/s/ Steven C. Strong

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